

Answering your questions about the complaint investigation process...

Why is a complaint resolution process needed?

The federal regulations to the Individuals with Disabilities Education Act (IDEA) require that the State adopt written procedures for resolving any complaint according to 34 C.F.R. §§300.151-153.

What is a complaint?

A complaint is a written signed statement by an individual or organization that alleges a district has violated a requirement of federal or State statutes or regulations that apply to a program. Complaints must be sent to Special Education Programs in the Department of Education. The complainant must also provide the public agency serving the child a copy of the complaint at the same time it is filed with the State.

What must a complaint include?

The complaint must include the following components:

- ◆ A statement that the public agency has violated a requirement of the IDEA, the federal regulations, or State law
- ◆ The facts on which the statement is based
- ◆ Contact information for the complainant
- ◆ A description of the nature of the problem of the child
- ◆ A proposed resolution to the extent known.

If alleging violations about a specific child, then the complaint must also include contact information for the child and the school the child attends.

Who can file a complaint?

Any individual or organization may file a complaint. A complaint could even be received from an individual or organization from another State.

Are there time limits on filing complaints?

A complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received. Allegations outside of the one-year period cannot be accepted by the Special Education Programs for investigation.

Does a complaint have to be mailed?

The Special Education Programs office must receive a signed, written complaint. Most complaints are mailed to Special Education Programs. However, it is acceptable to fax a complaint to the office. Unsigned complaints will not be investigated. Therefore, complaints received via e-mail will not be investigated unless followed by a signed letter of complaint. The complaint resolution timeline begins upon receipt of the signed, written complaint.

How long does Special Education Programs have to investigate the complaint?

Complaints must be investigated and resolved within 60 days of receipt of the complaint letter. This 60-day timeline can only be extended if

- ◆ Exceptional circumstances exist as determined by the Director of Special Education Programs; or
- ◆ The parties agree to engage in mediation or other alternative means of dispute resolution.

What can the complainant expect from the complaint investigation process?

If you are the complainant, you can expect that upon receipt of the complaint, the complaint coordinator for the Special Education Programs will contact you. The complaint coordinator will review the issues of the complaint with you and discuss the procedures for the investigation. A complaint investigation team will be appointed to investigate the complaint by the director of the Special Education Programs. This investigative team will develop an investigative plan, which may include review of documents, interviews, and on-site investigations. The complainant has the right to submit additional information during the investigative process. After the fact-finding process is complete, a complaint report is generated. This report documents the information gathered throughout the investigation, the findings of fact, and the conclusions of the investigation. If the district is found to be out of compliance, the report will also include a plan for corrective action. This corrective action is specifically designed to ensure that

the areas of noncompliance are addressed, preventing future similar problems in this area. The entire process of investigating and issuing a complaint report must be completed with 60 calendar days, unless the timeline is properly extended.

Can the complainant change their mind and ask for the complaint to be dismissed? What is the obligation of the Special Education Programs?

The request to dismiss the complaint does not automatically guarantee that the Special Education Programs will discontinue the investigation. Because Special Education Programs has the obligation to provide general supervision to all school districts, it may determine that the investigation must continue even after the complainant has decided to dismiss the complaint.

If the Office determines that the complaint has been satisfactorily resolved prior to the completion of the investigation process, they will send a letter to the complainant confirming the resolution.

Can both a complaint and a due process hearing request be filed on the same issue?

If the Special Education Programs receives both a hearing request and a complaint on the same issue(s), the complaint must be set aside until the conclusion of the hearing. A hearing officer's decision on the issue(s) will be binding and final. If there are any issues in the complaint that are not part of the hearing request, the complaint investigation process will continue, adhering to the 60-day timeline for resolution.

Is there an appeal process to the findings of a complaint investigation?

South Dakota, like most states, does not have an appeal process as part of its complaint investigation procedures. However, a parent or school district may utilize the due process hearing system to initiate a due process hearing request after a complaint decision has been issued. A decision made in a due process hearing is final, subject to the appeal rights in the IDEA.

Can a complaint be filed after a due process hearing on the same issue?

No. If an issue raised in a complaint has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on the parties.

What is the contact information for the Special Education Programs?

Special Education Programs
700 Governors Drive
Pierre, South Dakota 57501
605-773-3678 Fax 605-773-3782

Answering your questions about the complaint investigation process...

